

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

**ALLSTATE INSURANCE COMPANY;  
ALLSTATE FIRE AND CASUALTY  
INSURANCE COMPANY; and  
ALLSTATE PROPERTY AND  
CASUALTY INSURANCE COMPANY,**

Plaintiffs,

v.

**SOUTHEAST MICHIGAN SURGICAL  
HOSPITAL, LLC; J. ALAN  
ROBERTSON, M.D., P.C.; MARTIN  
QUIROGA, P.C.; COMPREHENSIVE  
NEUROMONITORING, LLC; J. ALAN  
ROBERTSON, M.D.; MARTIN  
QUIROGA, D.O.; and SIDNEY  
BRODER, M.D.,**

Defendants.

Case No. 2:22-cv-11684  
Hon. Stephen J. Murphy  
Mag. Elizabeth A. Stafford

**DEFENDANT SIDNEY  
BRODER, M.D.'S  
ANSWER TO  
PLAINTIFFS'  
COMPLAINT; RELIANCE  
ON JURY DEMAND AND  
AFFIRMATIVE  
DEFENSES**

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**DEFENDANT SIDNEY BRODER, M.D.'S ANSWER TO PLAINTIFFS'  
COMPLAINT; RELIANCE ON JURY DEMAND AND  
AFFIRMATIVE DEFENSES**

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NOW COMES the Defendant, SIDNEY BRODER, M.D., by and through his counsel, Giarmarco, Mullins & Horton, P.C., and for his Answer to Plaintiffs' Complaint, states as follows:

**I. INTRODUCTION**

1. Defendant denies as untrue.
2. Defendant denies as untrue.
3. Defendant denies as untrue.
4. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 4.

5. Defendant denies as untrue.

**II. THE PARTIES**

**A. PLAINTIFFS**

6. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 6.

7. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 7.

8. Defendant lacks sufficient information to form a belief as to the truth of the

allegations in paragraph 8.

**B. DEFENDANTS**

**1. Southeast Michigan Surgical Hospital, LLC**

9. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 9.

10. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 10.

11. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 11.

12. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 12.

13. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 13.

14. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 14.

15. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 15.

16. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 16.

**2. J. Alan Robertson, M.D., P.C.**

17. Defendant lacks sufficient information to form a belief as to the truth of the

allegations in paragraph 17.

18. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 18.

19. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 19.

20. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 20.

**3. Martin Quiroga, P.C.**

21. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 21.

22. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 22.

23. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 23.

24. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 24.

25. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 25.

**4. Comprehensive Neuromonitoring, LLC**

26. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 26.

27. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 27.

28. Defendant denies as untrue.

29. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 29.

30. Defendant denies as untrue.

**5. J. Alan Robertson, M.D.**

31. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 31.

32. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 32.

**6. Martin Quiroga, D.O.**

33. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 33.

34. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 34.

**7. Sidney Broder, M.D.**

35. Defendant admits.

36. Defendant denies as untrue.

**III. JURISDICTION AND VENUE**

37. Defendant lacks sufficient information to form a belief as to the truth of the

allegations in paragraph 37.

38. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 38.

39. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 39.

40. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 40.

#### **IV. BACKGROUND ON THE DEFENDANTS AND THEIR SCHEME**

41. Defendant denies as untrue.

42. Defendant denies as untrue.

43. Defendant denies as untrue.

44. Defendant denies as untrue.

45. Defendant denies as untrue.

46. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 46.

47. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 47.

48. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 48.

49. Defendant lacks sufficient information to form a belief as to the truth of the

allegations in paragraph 49.

50. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 50.

51. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 51.

52. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 52.

53. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 53.

54. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 54.

55. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 55.

56. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 56.

57. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 57.

58. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 58.

59. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 59.

60. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 60.

61. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 61.

62. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 62.

63. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 63.

64. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 64.

65. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 65.

66. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 66.

67. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 67.

68. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 68.

69. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 69.

70. Defendant lacks sufficient information to form a belief as to the truth of the



allegations in paragraph 70.

71. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 71.

72. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 72.

73. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 73.

74. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 74.

75. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 75.

76. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 76.

77. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 77.

78. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 78.

79. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 79.

80. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 80.

81. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 81.

82. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 82.

83. Defendant denies as untrue.

84. Defendant denies as untrue.

85. Defendant denies as untrue.

86. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 86.

87. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 87.

88. Defendant denies as untrue.

## **V. BILLING FOR SERVICES NOT RENDERED**

89. Defendant denies as untrue.

90. Defendant denies as untrue.

91. Defendant denies as untrue.

92. Defendant denies as untrue.

### **A. BILLING FOR SERVICES NOT RENDERED BY SE MI HOSPITAL**

93. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 93.

94. Defendant lacks sufficient information to form a belief as to the truth of the

allegations in paragraph 94.

95. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 95.

96. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 96.

97. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 97.

98. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 98.

99. Defendant denies as untrue.

100. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 100.

101. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 101.

102. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 102.

103. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 103.

104. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 104.

105. Defendant lacks sufficient information to form a belief as to the truth of the

allegations in paragraph 105.

**B. BILLING FOR SERVICES NOT RENDERED BY PHYSICIANS**

106. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 106.

107. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 107.

108. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 108.

109. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 109.

110. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 110.

111. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 111.

112. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 112.

113. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 113.

114. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 114.

115. Defendant lacks sufficient information to form a belief as to the truth of the

allegations in paragraph 115.

116. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 116.

117. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 117.

**C. BILLING FOR SERVICES NOT RENDERED BY COMPREHENSIVE NEUROMONITORING**

118. Defendant denies as untrue.

119. Defendant denies as untrue.

120. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 120.

121. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 121.

122. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 122.

123. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 123.

124. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 124.

125. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 125.

126. Defendant denies as untrue.

127. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 127.

128. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 128.

129. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 129.

130. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 130.

131. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 131.

132. Defendant denies as untrue.

133. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 133.

134. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 134.

135. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 135.

136. Defendant denies as untrue.

137. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 137.

138. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 138.

139. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 139.

140. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 140.

**D. SPECIFIC EXAMPLES OF BILLING FOR SERVICES NOT RENDERED**

141. Defendant denies as untrue, including subparagraphs a – l.

142. Defendant denies as untrue.

**VI. MULTIPLE BILLING FOR IDENTICAL SERVICES**

143. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 143.

**A. MULTIPLE BILLING FOR PROCEDURES**

**1. Multiple Billing by SE MI Hospital**

144. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 144.

145. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 145.

146. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 146.

147. Defendant lacks sufficient information to form a belief as to the truth of the

allegations in paragraph 147.

148. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 148.

149. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 149.

150. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 150.

151. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 151.

152. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 152.

153. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 153.

154. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 154.

155. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 155.

156. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 156.

157. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 157.



158. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 158.

159. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 159.

160. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 160.

161. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 161.

162. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 162.

163. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 163.

164. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 164.

## **2. Multiple Billing by Physicians**

165. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 165.

166. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 166.

167. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 167.

168. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 168.

169. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 169.

170. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 170.

171. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 171.

172. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 172.

173. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 173.

174. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 174.

175. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 175.

176. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 176.

177. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 177.

178. Defendant lacks sufficient information to form a belief as to the truth of the

allegations in paragraph 178.

179. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 179.

180. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 180.

181. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 181.

182. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 182.

183. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 183.

184. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 184.

185. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 185.

186. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 186.

187. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 187.

### **3. Multiple Billing for IONM**

188. Defendant denies as untrue.

189. Defendant denies as untrue.

190. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 190.

191. Defendant denies as untrue.

192. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 192.

193. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 193.

194. Defendant denies as untrue.

**B. SPECIFIC EXAMPLES OF MULTIPLE BILLING**

195. Defendant denies as untrue, including subparagraphs a – e.

**VII. UNREASONABLE AND UNNECESSARY FRAUDULENT TREATMENT**

196. Defendant denies as untrue.

197. Defendant denies as untrue.

198. Defendant denies as untrue.

199. Defendant denies as untrue.

200. Defendant denies as untrue.

201. Defendant denies as untrue.

202. Defendant denies as untrue.

203. Defendant denies as untrue.

**A. MEDICALLY UNNECESSARY SURGERIES**

204. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 204.

205. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 205.

206. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 206.

207. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 207.

208. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 208.

209. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 209.

210. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 210.

211. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 211.

212. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 212.

213. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 213.

214. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 214.

215. Defendant denies as untrue.

216. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 216.

217. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 217.

218. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 218.

219. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 219.

220. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 220.

221. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 221.

222. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 222.

223. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 223.

224. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 224.

225. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 225.

**1. Medically Unnecessary MUA**

226. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 226.

227. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 227.

228. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 228.

229. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 229.

230. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 230.

231. Defendant denies as untrue.

232. Defendant denies as untrue.

233. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 233.

234. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 234.

235. Defendant denies as untrue.

236. Defendant denies as untrue.

237. Defendant denies as untrue.

238. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 237, including subparagraphs a – c.

## **2. Medically Unnecessary IONM**

239. Defendant denies as untrue.

240. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 240.

241. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 241.

242. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 242.

243. Defendant denies as untrue.

244. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 244.

245. Defendant denies as untrue.

246. Defendant denies as untrue.

247. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 247.

248. Defendant denies as untrue.

249. Defendant denies as untrue.

250. Defendant denies as untrue.



251. Defendant denies as untrue.

252. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 252.

253. Defendant denies as untrue.

254. Defendant denies as untrue.

255. Defendant denies as untrue.

256. Defendant denies as untrue.

257. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 257.

### **3. Unnecessary Use of Assistant Surgeons**

258. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 258.

259. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 259.

260. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 260.

261. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 261.

262. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 262.

263. Defendant lacks sufficient information to form a belief as to the truth of the

allegations in paragraph 263.

264. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 264.

265. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 265.

266. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 266.

267. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 267.

268. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 268.

269. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 269.

270. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 270.

271. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 271.

272. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 272.

273. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 273.

274. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 274.

275. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 275.

276. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 276.

277. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 277.

278. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 278.

**B. MEDICALLY UNNECESSARY INJECTIONS**

279. Defendant denies as untrue.

280. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 280.

281. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 281.

282. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 282.

283. Defendant denies as untrue.

284. Defendant denies as untrue.

285. Defendant lacks sufficient information to form a belief as to the truth of the

allegations in paragraph 285.

286. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 286.

287. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 287.

288. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 288.

289. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 289.

290. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 290.

291. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 291.

292. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 292.

293. Defendant denies as untrue.

294. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 294.

295. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 295.

296. Defendant denies as untrue.

297. Defendant denies as untrue.

298. Defendant denies as untrue.

299. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 299.

300. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 300.

301. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 301.

302. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 302.

303. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 303.

304. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 304.

305. Defendant denies as untrue, including subparagraphs a – b.

#### **VIII. FRAUDULENT BILLING**

306. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 306.

307. Defendant denies as untrue.

308. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 308.

309. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 309.

310. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 310.

311. Defendant denies as untrue.

**A. FRAUDULENT FACILITY FEE BILLING**

312. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 312.

313. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 313.

314. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 314.

315. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 315.

316. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 316.

317. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 317.

318. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 318.

319. Defendant lacks sufficient information to form a belief as to the truth of the

allegations in paragraph 319.

320. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 320, including subparagraphs 1 – 5.

321. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 321.

322. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 322.

323. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 323.

**B. FRAUDULENTLY UPCODED OFFICE VISITS**

324. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 324.

325. Defendant denies as untrue.

326. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 326.

327. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 327.

328. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 328.

329. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 329.

330. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 330.

331. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 331.

332. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 332.

333. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 333.

334. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 334.

335. Defendant denies as untrue.

336. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 336.

337. Defendant denies as untrue.

338. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 338.

339. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 339.

340. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 340.

341. Defendant lacks sufficient information to form a belief as to the truth of the



allegations in paragraph 341.

342. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 342.

343. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 343.

344. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 344.

345. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 345.

346. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 346.

347. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 347.

### **PHYSICAL EXAMINATION**

#### **Unchanged from 11-21-16**

348. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 348.

349. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 349.

350. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 350.

351. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 351.

352. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 352.

353. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 353.

354. Defendant denies as untrue.

**C. FRAUDULENT USE OF CPT CODE MODIFIERS**

355. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 355.

356. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 356.

357. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 357.

358. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 358.

359. Defendant denies as untrue.

360. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 360.

361. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 361.

362. Defendant denies as untrue.

**D. IMPROPER BILLING DURING GLOBAL POST-SURGERY PERIODS**

363. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 363.

364. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 364.

365. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 365.

366. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 366.

367. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 367.

368. Defendant denies as untrue.

369. Defendant denies as untrue.

370. Defendant denies as untrue, including subparagraphs a – b.

371. Defendant denies as untrue.

372. Defendant denies as untrue.

**IX. EXCESSIVE AND UNREASONABLE CHARGES**

373. Defendant denies as untrue.

**A. EXCESSIVE AND UNREASONABLE CHARGES FOR PROCEDURES**

374. Defendant denies as untrue.

375. Defendant denies as untrue.

376. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 376.

377. Defendant denies as untrue.

378. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 378.

379. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 379.

380. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 380.

381. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 381.

382. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 382.

383. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 383.

384. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 384.

385. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 385.

386. Defendant lacks sufficient information to form a belief as to the truth of the

allegations in paragraph 386.

387. Defendant denies as untrue.

388. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 388.

389. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 389.

390. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 390.

391. Defendant denies as untrue.

**X. MISREPRESENTATIONS MADE BY THE DEFENDANTS AND  
RELIED ON BY ALLSTATE**

**A. MISREPRESENTATIONS BY THE DEFENDANTS**

392. Defendant denies as untrue.

393. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 393.

394. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 394.

395. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 395.

396. Defendant denies as untrue, including subparagraphs a – l.

397. Defendant denies as untrue.

398. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 398.

399. Defendant denies as untrue.

400. Defendant denies as untrue.

401. Defendant denies as untrue.

402. Defendant denies as untrue.

403. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 403.

404. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 404.

405. Defendant denies as untrue.

**B. ALLSTATE'S JUSTIFIABLE RELIANCE**

406. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 406.

407. Defendant denies as untrue.

408. Defendant denies as untrue.

409. Defendant denies as untrue.

410. Defendant denies as untrue.

411. Defendant denies as untrue.

412. Defendant denies as untrue.

413. Defendant denies as untrue.

**XI. MAIL AND WIRE FRAUD RACKETEERING ACTIVITY**

414. Defendant denies as untrue.

415. Defendant denies as untrue.

416. Defendant denies as untrue.

417. Defendant denies as untrue.

418. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 418.

419. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 419.

420. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 420.

421. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 421.

422. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 422.

423. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 423.

424. Defendant denies as untrue.

425. Defendant denies as untrue.

426. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 426.

427. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 427.

428. Defendant denies as untrue.

429. Defendant denies as untrue.

430. Defendant denies as untrue.

431. Defendant denies as untrue.

432. Defendant denies as untrue.

433. Defendant denies as untrue.

434. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 434.

435. Defendant denies as untrue.

## **XII. DAMAGES**

436. Defendant denies as untrue.

437. Defendant denies as untrue.

438. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 438.

439. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 439.

440. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 440.

441. Defendant lacks sufficient information to form a belief as to the truth of the



allegations in paragraph 441.

442. Defendant denies as untrue.

443. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 443.

444. Defendant denies as untrue.

### **XIII. CAUSES OF ACTION**

#### **COUNT I**

#### **VIOLATION OF 18 U.S.C. § 1962(c)**

#### **(SE MI Hospital Enterprise)**

**Against J. Alan Robertson, M.D., P.C., Martin Quiroga, P.C., Comprehensive Neuromonitoring, LLC, J. Alan Robertson, M.D., Martin Quiroga, D.O., and Sidney Broder, M.D.**

445. Defendant incorporates all preceding paragraphs as if fully set forth herein.

446. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 446.

447. Defendant denies as untrue.

448. Defendant denies as untrue.

449. Defendant denies as untrue.

450. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 450.

451. Defendant denies as untrue.

452. Defendant denies as untrue.

453. Defendant denies as untrue.

454. Defendant denies as untrue.

455. Defendant denies as untrue. Defendant further requests that the Court enter a verdict of no cause of action, together with an award of costs and attorney fees.

**COUNT II**  
**VIOLATION OF 18 U.S.C. § 1962(d)**  
**(SE MI Hospital Enterprise)**

**Against J. Alan Robertson, M.D., P.C., Martin Quiroga, P.C., Comprehensive Neuromonitoring, LLC, J. Alan Robertson, M.D., Martin Quiroga, D.O., and Sidney Broder, M.D.**

456. Defendant incorporates all preceding paragraphs as if fully set forth herein.

457. Defendant denies as untrue.

458. Defendant denies as untrue.

459. Defendant denies as untrue.

460. Defendant denies as untrue.

461. Defendant denies as untrue.

462. Defendant denies as untrue.

463. Defendant denies as untrue. Defendant further requests that the Court enter a verdict of no cause of action, together with an award of costs and attorney fees.

**COUNT III**  
**VIOLATION OF 18 U.S.C. § 1962(c)**  
**(Robertson, P.C. Enterprise)**

**Against Southeast Michigan Surgical Hospital, LLC, Comprehensive Neuromonitoring, LLC, J. Alan Robertson M.D., and Sidney Broder, M.D.**

464. Defendant incorporates all preceding paragraphs as if fully set forth herein.

465. Defendant lacks sufficient information to form a belief as to the truth of the

allegations in paragraph 465.

466. Defendant denies as untrue.

467. Defendant denies as untrue.

468. Defendant denies as untrue.

469. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 469.

470. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 470.

471. Defendant denies as untrue.

472. Defendant denies as untrue.

473. Defendant denies as untrue.

474. Defendant denies as untrue. Defendant further requests that the Court enter a verdict of no cause of action, together with an award of costs and attorney fees.

**COUNT IV**  
**VIOLATION OF 18 U.S.C. § 1962(d)**  
**(Robertson, P.C. Enterprise)**

**Against Southeast Michigan Surgical Hospital, LLC, Comprehensive  
Neuromonitoring, LLC, J. Alan Robertson, M.D., and Sidney Broder, M.D.**

475. Defendant incorporates all preceding paragraphs as if fully set forth herein.

476. Defendant denies as untrue.

477. Defendant denies as untrue.

478. Defendant denies as untrue.

479. Defendant denies as untrue.

480. Defendant denies as untrue.

481. Defendant denies as untrue.

482. Defendant denies as untrue. Defendant further requests that the Court enter a verdict of no cause of action, together with an award of costs and attorney fees.<sup>5</sup>

**COUNT V**  
**VIOLATION OF 18 U.S.C. § 1962(c)**  
**(Quiroga, P.C. Enterprise)**  
**Against Southeast Michigan Surgical Hospital, LLC and**  
**Martin Quiroga, D.O.**

483. Defendant incorporates all preceding paragraphs as if fully set forth herein.

484. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 484.

485. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 485.

486. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 486.

487. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 487.

488. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 488.

489. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 489.

490. Defendant lacks sufficient information to form a belief as to the truth of the

allegations in paragraph 490.

491. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 491.

492. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 492.

**COUNT VI**  
**VIOLATION OF 18 U.S.C. § 1962(d)**  
**(Quiroga, P.C. Enterprise)**  
**Against Southeast Michigan Surgical Hospital, LLC and**  
**Martin Quiroga, D.O.)**

493. Defendant incorporates all preceding paragraphs as if fully set forth herein.

494. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 494.

495. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 495.

496. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 496.

497. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 497

498. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 498.

499. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 499.

500. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 500.

**COUNT VII**  
**VIOLATION OF 18 U.S.C. § 1962(c)**  
**(Comprehensive Neuromonitoring Enterprise)**  
**Against Southeast Michigan Surgical Hospital, LLC, J. Alan Robertson, M.D.,**  
**P.C., J. Alan Robertson, M.D. and Sidney Broder, M.D.**

501. Defendant incorporates all preceding paragraphs as if fully set forth herein.

502. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 502.

503. Defendant denies as untrue.

504. Defendant denies as untrue.

505. Defendant denies as untrue.

506. Defendant denies as untrue.

507. Defendant denies as untrue.

508. Defendant denies as untrue.

509. Defendant denies as untrue.

510. Defendant denies as untrue.

511. Defendant denies as untrue. Defendant further requests that the Court enter a verdict of no cause of action, together with an award of costs and attorney fees.

**COUNT VIII**  
**VIOLATION OF U.S.C. 18 § 1962(d)**  
**(Comprehensive Neuromonitoring Enterprise)**  
**Against Southeast Michigan Surgical Hospital, LLC, J. Alan Robertson, M.D.,**  
**P.C., J. Alan Robertson, M.D., and Sidney Broder, M.D.**

512. Defendant incorporates all preceding paragraphs as if fully set forth herein.

513. Defendant denies as untrue.

514. Defendant denies as untrue.

515. Defendant denies as untrue.

516. Defendant denies as untrue.

517. Defendant denies as untrue.

518. Defendant denies as untrue.

519. Defendant denies as untrue. Defendant further requests that the Court enter a verdict of no cause of action, together with an award of costs and attorney fees.

**COUNT IX**  
**COMMON LAW FRAUD**  
**Against All Defendants**

520. Defendant incorporates all preceding paragraphs as if fully set forth herein.

521. Defendant denies as untrue.

522. Defendant denies as untrue.

523. Defendant denies as untrue.

524. Defendant denies as untrue.

525. Defendant denies as untrue.

526. Defendant denies as untrue.

527. Defendant denies as untrue. Defendant further requests that the Court enter a verdict of no cause of action, together with an award of costs and attorney fees.

**COUNT X**  
**CIVIL CONSPIRACY**  
**Against All Defendants**

528. Defendant incorporates all preceding paragraphs as if fully set forth herein.

529. Defendant denies as untrue.

530. Defendant denies as untrue.

531. Defendant denies as untrue.

532. Defendant denies as untrue.

533. Defendant denies as untrue.

534. Defendant denies as untrue.

535. Defendant denies as untrue.

536. Defendant denies as untrue. Defendant further requests that the Court enter a verdict of no cause of action, together with an award of costs and attorney fees.

**COUNT XI**  
**PAYMENT UNDER MISTAKE OF FACT**  
**Against Southeast Michigan Surgical Hospital, LLC, J. Alan Robertson, M.D.,**  
**P.C., Martin Quiroga, P.C., and Comprehensive Neuromonitoring, LLC**

537. Defendant incorporates all preceding paragraphs as if fully set forth herein.

538. Defendant denies as untrue.

539. Defendant denies as untrue.

540. Defendant denies as untrue.

541. Defendant denies as untrue.

542. Defendant denies as untrue. Defendant further requests that the Court



enter a verdict of no cause of action, together with an award of costs and attorney fees.

**COUNT XII**  
**UNJUST ENRICHMENT**  
**Against All Defendants**

543. Defendant incorporates all preceding paragraphs as if fully set forth herein.

544. Defendant denies as untrue.

545. Defendant denies as untrue.

546. Defendant denies as untrue.

547. Defendant denies as untrue.

548. Defendant denies as untrue. Defendant further requests that the Court enter a verdict of no cause of action, together with an award of costs and attorney fees.

**COUNT XIII**  
**DECLARATORY RELIEF PURSUANT TO 28 U.S.C. § 2201**  
**Against All Defendants**

549. Defendant incorporates all preceding paragraphs as if fully set forth herein.

550. Defendant denies as untrue.

551. Defendant denies as untrue.

552. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 552.

553. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 553.

554. Defendant lacks sufficient information to form a belief as to the truth of the allegations in paragraph 554.

555. Defendant denies as untrue.

556. Defendant denies as untrue.

557. Defendant denies as untrue.

558. Defendant denies as untrue.

559. Defendant denies as untrue.

560. Defendant denies as untrue.

#### **XIV. DEMAND FOR RELIEF**

**WHEREFORE**, Defendant respectfully requests that the Court enter a verdict of no cause of action, together with an award of costs and attorney fees.

##### **COUNT I**

##### **VIOLATION OF 18 U.S.C. § 1962(c)**

**(SE MI Hospital Enterprise)**

**Against J. Alan Robertson, M.D., P.C., Martin Quiroga, P.C., Comprehensive Neuromonitoring, LLC, J. Alan Robertson, M.D., Martin Quiroga, D.O., and Sidney Broder, M.D.**

**WHEREFORE**, Defendant respectfully requests that the Court enter a verdict of no cause of action, together with an award of costs and attorney fees.

##### **COUNT II**

##### **VIOLATION OF 18 U.S.C. § 1962(d)**

**(SE MI Hospital Enterprise)**

**Against J. Alan Robertson, M.D., P.C., Martin Quiroga, P.C., Comprehensive Neuromonitoring, LLC, J. Alan Robertson, M.D., Martin Quiroga, D.O., and Sidney Broder, M.D.**

**WHEREFORE**, Defendant respectfully requests that the Court enter a verdict of no cause of action, together with an award of costs and attorney fees.

**COUNT III**

**VIOLATION OF 18 U.S.C. § 1962(c)**

**(Robertson, P.C. Enterprise)**

**Against Southeast Michigan Surgical Hospital, LLC, Comprehensive Neuromonitoring, LLC, J. Alan Robertson, M.D., and Sidney Broder, M.D.**

**WHEREFORE**, Defendant respectfully requests that the Court enter a verdict of no cause of action, together with an award of costs and attorney fees.

**COUNT IV**

**VIOLATION OF 18 U.S.C. § 1962(d)**

**(Robertson, P.C. Enterprise)**

**Against Southeast Michigan Surgical Hospital, LLC, Comprehensive Neuromonitoring, LLC, J. Alan Robertson, M.D., and Sidney Broder, M.D.**

**WHEREFORE**, Defendant respectfully requests that the Court enter a verdict of no cause of action, together with an award of costs and attorney fees.

**COUNT V**

**VIOLATION OF 18 U.S.C. § 1962(c)**

**(Quiroga, P.C. Enterprise)**

**Against Southeast Michigan Surgical Hospital, LLC and Martin Quiroga, D.O.**

**WHEREFORE**, Defendant respectfully requests that the Court enter a verdict of no cause of action, together with an award of costs and attorney fees.

**COUNT VI**

**VIOLATION OF 18 U.S.C. § 1962(d)**

**(Quiroga, P.C. Enterprise)**

**Against Southeast Michigan Surgical Hospital, LLC and Martin Quiroga, D.O.**

**WHEREFORE**, Defendant respectfully requests that the Court enter a verdict of no cause of action, together with an award of costs and attorney fees.

**COUNT VII**

**VIOLATION OF 18 U.S.C. § 1962(c)**

**(Comprehensive Neuromonitoring Enterprise)**

**Against Southeast Michigan Surgical Hospital, LLC, J. Alan Robertson, M.D.,  
P.C., J. Alan Robertson, M.D., and Sidney Broder, M.D.**

**WHEREFORE**, Defendant respectfully requests that the Court enter a verdict of no cause of action, together with an award of costs and attorney fees.

**COUNT VIII**

**VIOLATION OF 18 U.S.C. § 1962(d)**

**(Comprehensive Neuromonitoring Enterprise)**

**Against Southeast Michigan Surgical Hospital, LLC, J. Alan Robertson, M.D.,  
P.C., J. Alan Robertson, M.D., and Sidney Broder, M.D.**

**WHEREFORE**, Defendant respectfully requests that the Court enter a verdict of no cause of action, together with an award of costs and attorney fees.

**COUNT IX**

**COMMON LAW FRAUD**

**Against all Defendants**

**WHEREFORE**, Defendant respectfully requests that the Court enter a verdict of no cause of action, together with an award of costs and attorney fees.

**COUNT X**

**CIVIL CONSPIRACY**

**Against All Defendants**

**WHEREFORE**, Defendant respectfully requests that the Court enter a verdict of no cause of action, together with an award of costs and attorney fees.

**COUNT XI**

**PAYMENT UNDER MISTAKE OF FACT**

**Against Southeast Michigan Surgical Hospital, LLC, J. Alan Robertson, M.D.,  
P.C., Martin Quiroga, P.C., and Comprehensive Neuromonitoring, LLC**

**WHEREFORE**, Defendant respectfully requests that the Court enter a verdict of no cause of action, together with an award of costs and attorney fees.

**COUNT XII**  
**UNJUST ENRICHMENT**  
**Against All Defendants**

**WHEREFORE**, Defendant respectfully requests that the Court enter a verdict of no cause of action, together with an award of costs and attorney fees.

**COUNT XIII**  
**DECLARATORY RELIEF PURSUANT TO 28 U.S.C. § 2201**  
**Against All Defendants**

**WHEREFORE**, Defendant respectfully requests that the Court enter a verdict of no cause of action, together with an award of costs and attorney fees.

**GIARMARCO, MULLINS & HORTON, P.C.**

By: /s/ Geoffrey S. Wagner  
Geoffrey S. Wagner (P70839)  
Attorney for Defendant Sidney Broder, M.D.  
GIARMARCO, MULLINS & HORTON, P.C.  
101 W. Big Beaver Road, 10th Floor  
Troy, MI 48084  
(248) 457-7000; Fax: (248) 457-7001  
[gwagner@gmhlaw.com](mailto:gwagner@gmhlaw.com)

Dated: October 4, 2022

**RELIANCE ON JURY DEMAND**

NOW COMES the Defendant, SIDNEY BRODER, M.D., by and through his counsel, Giarmarco, Mullins & Horton, P.C., and hereby relies on Plaintiffs' Demand for

Jury Trial in the above matter.

**GIARMARCO, MULLINS & HORTON, P.C.**

By: /s/ Geoffrey S. Wagner  
Geoffrey S. Wagner (P70839)  
Attorney for Defendant Sidney Broder, M.D.  
GIARMARCO, MULLINS & HORTON, P.C.  
101 W. Big Beaver Road, 10th Floor  
Troy, MI 48084  
(248) 457-7000; Fax: (248) 457-7001  
[gwagner@gmhlaw.com](mailto:gwagner@gmhlaw.com)

Dated: October 4, 2022

**AFFIRMATIVE DEFENSES**

1. Plaintiffs cannot establish that Defendant Broder participated in a pattern of racketeering behavior;
2. Defendant Broder did not operate or manage the alleged enterprise nor does he own, operate or manage Co-Defendant Comprehensive Neuromonitoring, LLC;
3. Plaintiffs' claims against Defendant Broder are barred by the Professional Services Agreement between Broder and Co-Defendant Comprehensive Neuromonitoring, LLC;
4. Plaintiffs have failed to state a claim for which relief can be granted;
5. Plaintiffs' claims are barred in whole or in part because this Court lacks subject matter jurisdiction to grant some or all of the relief requested;
6. Plaintiffs' claims are moot;
7. There is no case or controversy existing between Plaintiffs and Defendant;

8. Plaintiffs' claims may be barred by the applicable doctrines of release, waiver, estoppel, accord and satisfaction, the statute of limitations, and/or laches;

9. Plaintiffs' claims are barred in whole or in part because Plaintiffs lack standing;

10. Plaintiffs have failed to mitigate their damages, if any;

11. Plaintiffs have failed to plead alleged special damages with particularity;

12. Plaintiffs' claims are barred in whole or in part by the applicable statute of frauds;

13. Plaintiffs' claims are barred in whole or in part because Plaintiffs may not invoke the equitable powers of this Court, Plaintiffs having come to this Court with unclean hands;

14. Plaintiffs' contract claims are barred in whole or in part by want or failure of consideration;

15. Plaintiffs' claims are barred in whole or in part by Plaintiffs' contributory and/or comparative negligence;

16. Defendant is entitled to set-off any amounts owing from Plaintiffs to Defendant against any damages Plaintiffs may be entitled to recover hereunder;

17. Plaintiffs have suffered no damages as a result of the actions of Defendant Broder;

18. Defendant hereby objects to improper/non-joinder of claims pursuant to Fed. R. Civ. P. 18;

19. Plaintiffs' claims are barred by the prohibition against "group pleading";
20. Plaintiffs' claims are barred by the provisions of the Michigan No-Fault Act;
21. Plaintiffs' claims are barred by mistake, innocent misrepresentation, and impossibility of performance;
22. Plaintiffs cannot establish that Dr. Broder conspired with the various Co-Defendants;
23. Defendant reserves and asserts the affirmative defenses and objections enumerated in Fed. R. Civ. P. 8, 9, 12, and 13; and
24. Defendant reserves the right to assert and file any additional defenses and objections as may be established in the course of pre-trial proceedings herein as may be necessary.

**GIARMARCO, MULLINS & HORTON, P.C.**

By: /s/ Geoffrey S. Wagner  
Geoffrey S. Wagner (P70839)  
Attorney for Defendant Sidney Broder, M.D.  
GIARMARCO, MULLINS & HORTON, P.C.  
101 W. Big Beaver Road, 10th Floor  
Troy, MI 48084  
(248) 457-7000; Fax: (248) 457-7001  
[gwagner@gmhlaw.com](mailto:gwagner@gmhlaw.com)

Dated: October 4, 2022

**CERTIFICATE SERVICE**

GEOFFREY S. WAGNER states that on the 4<sup>th</sup> day of October, 2022, he did



serve a copy of the foregoing document via the Court's electronic filing system, on the aforementioned date, which will send notification of such filing to the attorneys of record.

By: /s/ Geoffrey S. Wagner  
GEOFFREY S. WAGNER (P70839)

Dated: October 4, 2022

**GMH** GIARMARCO, MULLINS & HORTON, P.C.  
ATTORNEYS AND COUNSELORS AT LAW

Tenth Floor Columbia Center — 101 West Big Beaver Road — Troy, Michigan 48064-5280 — P: (248) 457-7000 — F: (248) 457-7001 — www.gmhlaw.com